



1 that he challenged in the Prior Petition.<sup>1</sup> (Objections at 2-5).  
2 Specifically, Petitioner argues that he is challenging an amended  
3 judgment because he was re-sentenced on June 7, 2010. (Id. at 2-4).  
4 As set forth in the Magistrate Judge's Report, however, Petitioner's  
5 resentencing on June 7, 2010 was for Case No. PA055664, not Case No.  
6 PA056055, and PA056055 is the judgment he is currently challenging.  
7 (R&R at 9). Petitioner contends that his resentencing constitutes an  
8 amended judgment in both cases because the trial court determined that  
9 the sentence in Case No. PA056055 would run consecutively to the  
10 sentence in Case No. PA055664 pursuant to California Penal Code section  
11 669. (Objections at 3).

12  
13 California Penal Code section 669 states that "[w]hen any person  
14 is convicted of two or more crimes, . . . the second or other subsequent  
15 judgment upon which sentence is ordered to be executed shall direct  
16 whether the terms of imprisonment or any of them to which he or she is  
17 sentenced shall run concurrently or consecutively." Here, the trial  
18 court in Case No. PA055664 determined that the sentence in Case No.  
19 PA056055 would run consecutively to the sentence in Case No. PA055664  
20 pursuant to California Penal Code section 669. (Lodgment 7 at 29-30).  
21 The trial court did not, however, alter the sentence in Case No.  
22 PA056055 or issue an amended judgment in that case. (Id.). Indeed, the  
23 amended judgment issued by the trial court on July 12, 2010 related only  
24 to Case No. PA055664. (Lodgment 6 at 29). Because the trial court did  
25 not issue an amended judgment in Case No. PA056055, the Petition

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27 <sup>1</sup> On June 26, 2012, the Ninth Circuit denied Petitioner's request  
28 for a certificate of appealability in Case No. 09-7320 CAS (SS), where  
the Court denied Petitioner's Prior Petition on the merits.

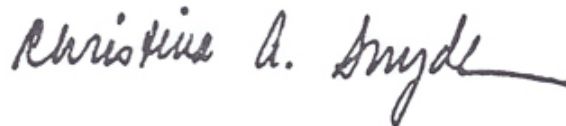
1 challenges the same 2007 judgment as the Prior Petition and is therefore  
2 successive.

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4 **IT IS ORDERED THAT:** (1) Respondent's Motion to Vacate is GRANTED  
5 IN PART AND DENIED IN PART (Docket No. 18); (2) Petitioner's Motion to  
6 Amend is DENIED (Docket No. 20); (3) the Petition is DENIED as  
7 successive; and (4) Judgment shall be entered DISMISSING THIS ACTION  
8 WITHOUT PREJUDICE.

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10 **IT IS FURTHER ORDERED** that the Clerk serve copies of this Order and  
11 the Judgment herein on Petitioner at his current address of record.

12  
13 **LET JUDGMENT BE ENTERED ACCORDINGLY.**

14  
15 DATED: July 2, 2012



16  
17 CHRISTINA A. SNYDER  
18 UNITED STATES DISTRICT JUDGE  
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